

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

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September 2007

### JUNE TRAINING SCHOOL

The State Board of Accounts extends its deepest appreciation to the Indiana League of Municipal Clerks and Treasurers for making the arrangements and handling the registrations at the school. Next year's June school will be held June 10 and 11, 2008, at the Executive Inn and Convention Center in Evansville as part of the League's Annual Conference.

### PROPERTY TAX ADVANCES

IC 5-13-6-3(b) requires the county treasurer to advance property taxes to any municipal corporation prior to the semiannual distribution of taxes, where the funds are needed, upon receipt of a written request from the proper officer of the municipal corporation. The county treasurer shall, no later than thirty (30) days after receipt of the written request advance such property taxes requested. Any such advances may not exceed 95% of the taxes collected at the time of the advance or 95% of the amount to be distributed at the semiannual distribution.

### APPROPRIATION OF CUMULATIVE FUNDS

Approval by the Department of Local Government Finance (DLGF) to establish a tax levy for any cumulative fund authorized by law does not carry with it the authority to expend such funds without appropriation.

Prior to obligating these funds, it will be necessary to secure an appropriation in the regular legal manner which requires advertising to the taxpayers and approval of the DLGF.

### PAYROLL FUND

In order to simplify the handling of withholdings from employee's salaries and wages, this department recommends the use of a "Payroll Fund" where the number of employees will justify it.

The following procedures should be used where a "Payroll Fund" is established:

- (1) "Payroll Fund" is to be printed or typed on each payroll warrant.
- (2) Each office and department shall submit a payroll schedule and voucher on General Form No. 99, covering the personal services of that office or department. This form shall include all compensation of the office or department, including salary and wages of the officer, deputies, clerks and other employees.
- (3) The individual payrolls will be summarized by the clerk-treasurer or city controller for each fund, using General Form No. 99, but indicating "SUMMARY" on the form. This will compile in total the payrolls for all officers and departments in each fund for each payroll period. Show the payroll claim number in the column headed "Class Title," and the name of the officer or department in the column headed "Name of Employee".

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 2

September 2007

### **PAYROLL FUND**

(Continued)

- (4) Total the payroll "SUMMARY" for each fund and issue a regular city or town warrant from such fund for the total gross pay and receipt this amount into the payroll fund.
- (5) Issue payroll warrants from the payroll fund based upon the information on the individual payroll schedules and vouchers submitted by each office and department. Each warrant must be completed in full, showing the gross pay and applicable payroll deductions. It is not necessary to indicate on the payroll warrant the appropriation account to which the warrant is chargeable.
- (6) Payroll deductions will be accumulated in the payroll fund, and then disbursed from this fund at the proper time to the various receiving agencies by payroll warrants. The payroll fund ledger sheet should be supported by subsidiary ledger sheets for each type of payroll deduction in order to see that no unidentified balance is allowed to accumulate in the payroll fund.
- (7) At the close of each month the payroll warrants for the month should be totaled and proved to the totals of the payroll summaries for the month. Enter the totals of the payroll warrants for the month on the payroll warrant register immediately after the last warrant issued, showing separately the totals of gross pay, each of the payroll deduction columns, and the net amount of the payroll warrants. These totals may then be posted to a "Control Account" in the payroll deduction record, Employee Earnings Record, General Form 99B, thereby furnishing a proof of posting to this record.
- (8) Posting to appropriation accounts is to be made from the individual payroll schedules and vouchers for the gross amount of the pay. Posting to the respective fund accounts is to be made from the regular city or town warrants for transfer of funds to the payroll fund. The totals of amounts posted to the appropriation accounts and the respective fund accounts must agree. Posting to the payroll fund is to be made from the payroll warrants.
- (9) The individual office or department payroll schedules and vouchers are to be filed in the regular manner. The payroll summaries are to be filed in good order in a suitable post binder.

### **OPTICAL IMAGES OF CHECKS**

An optical image of a check is considered an original record when:

- (1) The check is recorded, copied, or reproduced by an optical imaging process described in IC 5-15-6-3(e); and
- (2) The drawer of the check receives an optical image of the check after the check is processed for payment.

Original records may be disposed of if the records have been copied or reproduced in accordance with IC 5-15-6-3(e) and (f).

An optical image copy of a check would be treated as an original as long as the foregoing was followed.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 3

September 2007

### **OPTICAL IMAGES OF CHECKS**

(Continued)

Further, IC 26-2-8-111 states in part:

"(a) If a law requires that certain records be retained, that requirement is met by retaining an electronic record of the information in the record that:

- (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
- (2) remains accessible for later reference."

"(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a)."

The State Board of Accounts is of the audit position both sides of a check are part of the original record. Therefore, both sides of an "optical imaged check" should be available for public inspection and audit. Encoding, printing and bank certification should exist to ascertain that the back side of a check is part of a particular check, i.e. endorsements should belong to the front side of a check presented.

### **STATE MATCHING GRANTS**

If a political subdivision other than a school corporation receives state grant money requiring local matching money, the political subdivision shall create a special fund and deposit the grant money and matching money into the special fund. The money in the fund may be used only for the purposes of the grant.

If a political subdivision completes the project for which the state grant money was provided and money remains in the fund:

- (1) the political subdivision shall transfer the state's share of the remaining money to the treasurer of state for deposit in the fund from which the grant was made; and
- (2) the political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund. (IC 36-1-8-12)

### **CITY MANAGERS – THIRD CLASS CITIES**

A third class city may employ a nonpartisan city manager to be the administrative head of the city government. To employ a city manager, the executive must initiate an ordinance and the city legislative body must adopt an ordinance creating the city manager position. An ordinance creating the city manager position must state the powers and duties to be assumed by the city manager.

If the city legislative body adopts an ordinance to employ a city manager, the city legislative body may adopt an ordinance to permit the city manager to perform the duties of the executive on a part-time basis.

The city manager may be employed to serve at the pleasure of the executive who may submit to the city legislative body for approval under IC 36-4-7-3 the city manager's compensation and terms of employment.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 4

September 2007

### **CITY MANAGERS – THIRD CLASS CITIES**

(Continued)

The city legislative body may not employ a member of the legislative body as the city manager. A former member of the city legislative body may not be employed as the city manager for a period of two (2) years after leaving office.

A city may hire a city manager solely on the basis of the applicant's administrative and educational qualifications. The city shall give special deference to actual experience in or knowledge of accepted practices in field of municipal management.

A city manager may not campaign for or against a candidate for the city legislative body and may not participate in partisan political activities that would impair the city manager's performance as a professional administrator.

The city manager shall execute a bond for the faithful performance for the city manager's duties in the manner prescribed by IC 5-4-1.

The executive may appoint a qualified person to perform the duties of the city manager whenever the city manager is absent or unable to perform the city manager's duties.

The city manager, under the direction of the executive, is responsible for the administrative duties of the city.

The powers and duties of the city manager must be stated in the ordinance creating the city manager position. The city manager's powers and duties may include:

- (1) attending the meetings of the legislative body and recommending actions the city manager considers advisable;
- (2) hiring city employees according to the pay schedules and standards fixed by the legislative body or by statute;
- (3) suspending, discharging, removing, or transferring city employees;
- (4) delegating any of the city manager's powers to an employee responsible to the city manager;
- (5) administering and enforcing all ordinances, orders, and resolutions of the legislative body;
- (6) ensuring that all statutes that are required to be administered by the legislative body or a city employee subject to the control of the legislative body are faithfully administered;
- (7) preparing budget estimates and submitting them to the legislative body when required;
- (8) executing contracts on behalf of the city for materials, supplies, services, or improvements after the completion of the appropriations, notice, and competitive bidding required by statute;
- (9) receiving service of summons on behalf of the city;
- (10) administering the city's economic development plans and projects;
- (11) advising the executive, city legislative body, and public on the conduct of city affairs;

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **CITY MANAGERS – THIRD CLASS CITIES**

(Continued)

- (12) making recommendations on policy formulation;
- (13) recommending and executing city improvements;
- (14) serving on the board of public works and safety, and
- (15) other powers and duties determined to be advisable by the executive and legislative body.

The city manager may not serve as a member of any body that hears disciplinary charges against:

- (1) the chief of police;
- (2) a member of the city police department;
- (3) the city fire chief; or
- (4) a member of the city fire department.

The city legislative body may not authorize the city manager to issue or execute bonds, notes, or warrants of the city. (IC 36-4-12)

If the city legislative body adopts an ordinance under IC 36-1-12-6 to employ a city manager, the executive may appoint the city manager to a position on the board of public works and safety in place of the executive.

### **CLERK-TREASURER'S LIABILITY**

A clerk-treasurer is not liable, in an individual capacity, for an act or omission occurring in connection with the performance of the requirements set forth in IC 36-4-10-4.5(b) or IC 36-5-6-6(a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements. [IC 36-4-10-4.5(c) and IC 36-5-6-6(b)]

### **RIVERBOAT FUND**

Each unit that receives tax revenue under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue or a development agreement under IC 36-1-8-9.5, may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

The riverboat fund established shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund. (IC 36-1-8-9)

If a riverboat fund is not established, admissions and gambling taxes would be deposited in the unit's general fund and may not be used to reduce the unit's maximum or actual tax levy. (IC 4-33-13-6)

# **CITIES AND TOWNS BULLETIN**

## **AND UNIFORM COMPLIANCE GUIDELINES**

Page 6

September 2007

### **PARK AND RECREATION - BOARD MEMBER SALARIES**

IC 36-10-3-9 allows for salaries to be paid to board members and also provides that per diems could be paid to board members for attending meetings of the board in amounts appropriated and approved by the council.

### **REDEVELOPMENT COMMISSIONS - SALARIES AND PER DIEMS**

A redevelopment commissioner who does not hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive a salary or a per diem and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties. (IC 36-7-14-7)

### **POPULATION DECREASE - SECOND CLASS CITIES**

A second class city remains a second class city even though its population decreases to less than thirty-five thousand (35,000) unless the legislative body of such city adopts third class city status by ordinance. (IC 36-4-1-1)

### **INVESTMENTS - AUTHORITY FOR**

IC 5-13-9-1 authorizes each fiscal officer of a political subdivision or other officer of a governmental entity authorized by statute to make investments under the guidelines established by the fiscal body of the political subdivision and in accordance with IC 5-13-9.

### **QUESTIONS AND ANSWERS FROM THE JUNE 2007 CITIES AND TOWNS TRAINING SCHOOL**

#### **QUESTION NO. 1:**

Can a city issue bonds to demolish an unsafe building? The building is owned by a not-for-profit corporation that does not have the funds to demolish the building.

#### **ANSWER:**

A city redevelopment commission could issue bonds under IC 36-7-14 to demolish the property. A city could also demolish the property using the provisions of IC 36-7-9.

#### **QUESTION NO. 2:**

Our fire department is a department of the town with a department budget. It is a volunteer fire department. Is there a law that requires their funds to be processed through the clerk-treasurer's office?

#### **ANSWER:**

IC 36-5-6-6 requires a town clerk-treasurer to receive and care for all town money and pay the money out only on order of the town legislative body.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 7

September 2007

### QUESTIONS AND ANSWERS FROM THE JUNE 2007 CITIES AND TOWNS TRAINING SCHOOL

(Continued)

#### QUESTION NO. 3:

May cities and towns enter into a sweep account with a designated depository?

#### ANSWER:

IC 5-13-9-3 allows cities and towns to enter into repurchase agreements which involve the purchase and guaranteed resale of securities between two (2) parties and that may be entered for a fixed term or arranged on an open or a continuing basis as a continuing contract that:

- (A) operates like a series of overnight repurchase agreements;
- (B) is renewed each day with the repurchase rate and the amount of the funds invested determined daily; and
- (C) is considered to have a stated final maturity of one (1) day. Each officer may enter into, with any funds that are held by the officer and available for investment, repurchase agreements:
  - (1) with depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5; and
  - (2) involving the political subdivision's purchase and guaranteed resale of any interest-bearing obligations:
    - (A) issued; or
    - (B) fully insured or guaranteed;

by the United States, a United States government agency, an instrumentality of the United States, or a federal government sponsored enterprise.

The depository shall determine daily that the amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by their current market value. The collateral for this type of agreement is not subject to IC 5-13-9-2(c).

If the market value of the obligations being held as collateral falls below the level required under IC 5-13-9-3(b) or a higher level established by agreement, the depository shall deliver additional securities to the political subdivision to make the agreement collateralized to the applicable level. The collateral involved in a repurchase agreement entered into under this section is not subject to the maturity limitation provided in IC 5-13-9-5.6.

A city or town may invest in repurchase agreements without entering into a contract under IC 5-13-11 for an investment cash management system.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 8

September 2007

### **QUESTIONS AND ANSWERS FROM THE JUNE 2007 CITIES AND TOWNS TRAINING SCHOOL**

(Continued)

#### **QUESTION NO. 4:**

Can we establish a line item in the general fund budget for unsafe building expenses? Can we transfer this amount to an unsafe building fund? Does this require council approval for such transfer? Does money in an unsafe building have to be appropriated?

#### **ANSWER:**

IC 36-7-9-14(b) allows money appropriated by a local government to be transferred to an unsafe building fund. The unsafe building procedures set out in IC 36-7-9 need to be adopted by local ordinance. Money in the unsafe building fund needs to be appropriated by the city/town council.

#### **QUESTION NO. 5:**

Can a town shut off water to a customer on a Friday and leave the water off until the bill is paid in full?

#### **ANSWER:**

Unless a water utility is subject to the rules and regulations of the Indiana Utility Regulatory Commission (IURC), we are unaware of any State statute governing discontinuance of service on a Friday. There is a requirement set out in IC 8-1.5-3-4 that before water service is discontinued, the board must give written notice to the water consumer or property owner of its intention to discontinue water service because of any unpaid sewer charges. The notice must be mailed not less than ten (10) days before water service is to be discontinued.

#### **QUESTION NO. 6:**

Is a regional sewer district exempt from the utility receipts tax?

#### **ANSWER:**

IC 6-2.3-4-3 specifically exempts regional sewer districts from the utility receipts tax.

#### **QUESTION NO. 7:**

Is there a limit on the length of time an individual who has provided professional services has to submit an invoice for payments?

#### **ANSWER:**

It is our audit position that if money has been appropriated for the payment of professional services in a given year, then invoices for services provided in that year should be submitted in the applicable year.



# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 9

September 2007

### **QUESTIONS AND ANSWERS FROM THE JUNE 2007 CITIES AND TOWNS TRAINING SCHOOL** (Continued)

#### **QUESTION NO. 8:**

If you tape record meetings, do you still have to type minutes?

#### **ANSWER:**

IC 5-14-1.5-4 requires the following memoranda to be kept for each meeting:

- (1) The date, time, and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken, by individual members if there is a roll call.
- (5) Any additional information required under IC 5-1.5-2-2.5

The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying.

#### **QUESTION NO. 9:**

Can you provide the statute that allows a clerk-treasurer to refuse to pay a claim that she believes to be fraudulent?

#### **ANSWER:**

IC 36-4-8, IC 36-5-4 and IC 5-11-10 require all claims to be supported by a fully itemized invoice or bill certified that each invoice is true and correct and allowed by the proper board before a clerk-treasurer may pay a claim. If any bill or invoice fails to meet such requirements, the clerk-treasurer is not authorized to pay the claims.

#### **QUESTION NO. 10:**

May we charge for faxing a document for a resident?

#### **ANSWER:**

Yes. However, your city or town should have a home rule ordinance setting out the amount the city or town will charge for such service.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 10

September 2007

### **QUESTIONS AND ANSWERS FROM THE JUNE 2007 CITIES AND TOWNS TRAINING SCHOOL**

(Continued)

#### **QUESTION NO. 11:**

Can the mayor raise salaries of city employees at any time during the year?

#### **ANSWER:**

IC 36-4-7-3(c) states that the compensation of each city appointive officer, deputy, or other employee may be increased or decreased by the executive during the budget year for which it is fixed.

#### **QUESTION NO. 12:**

Regarding Public Law 448, Senate Enrolled Act 129, will the non-strike provisions in the law apply to our volunteer firefighters?

#### **ANSWER:**

No. IC 36-8-22 defines persons who may not participate in a strike to mean full-time employees of a police or fire department.

#### **QUESTION NO. 13:**

Is there an Indiana Code governing golf carts driven on city/town streets?

#### **ANSWER:**

IC 9-13-2-94.5 defines a low speed vehicle to mean a four (4) wheeled electrically powered motor vehicle with a maximum speed of not more than thirty-five (35) miles per hour. IC 9-21-5-8.5 prohibits such vehicles from being on a highway that has a speed limit in excess of thirty-five (35) miles per hour.

#### **QUESTION NO. 14:**

Are trash collection fees and storm water fees subject to the utility receipts tax?

#### **ANSWER:**

It is our understanding from the Indiana Department of Revenue that such fees are not subject to the utility receipts tax. For further clarification, the Department of Revenue's phone number is (317) 233-4015.